



INTERIOR BOARD OF INDIAN APPEALS

Estate of Kenneth Kicking Woman

40 IBIA 312 (04/13/2005)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
801 NORTH QUINCY STREET
SUITE 300
ARLINGTON, VA 22203

ESTATE OF KENNETH KICKING : Order Affirming Decision
WOMAN :
: Docket No. IBIA 05-37
:
: April 13, 2005

Amanda Old Shoes (Appellant), *pro se*, appealed from a December 6, 2004, Order Denying Rehearing entered by Administrative Law Judge Robert G. Holt in the Estate of Kenneth Kicking Woman (Decedent), deceased Blackfeet Indian (Enrollment No. 201 U009066; Probate No. RM-201-0280). Appellant is Decedent's daughter.

Judge Holt denied Appellant's request for rehearing as untimely. Under 43 C.F.R. § 4.241(a), a petition for rehearing must be filed within 60 days after the date on which notice of the decision is mailed to interested parties. If a petition is not filed within that time period, the petition will be denied. *Id.* § 4.241(b). Judge Holt found that Appellant's request had been filed, as evidenced by the postmark, on September 22, 2004, which was 61 days after the July 23, 2004, probate decision in Decedent's estate was mailed to interested parties. Order Denying Rehearing at 1 (citing Estate of Anthony Munks, 37 IBIA 202 (2002)).

The Board of Indian Appeals (Board) obtained from Judge Holt a copy of the envelope in which Appellant had mailed her request for rehearing, which showed a September 22, 2004, postmark. On February 11, 2005, the Board issued an order for Appellant to show cause, on or before March 10, 2005, why Judge Holt's order denying her petition for rehearing as untimely should not be summarily affirmed. The Board advised Appellant that failure to comply with the order would result in summary affirmance of the order denying rehearing. The Board has received no response from Appellant.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the Board affirms Judge Holt's December 6, 2004, Order Denying Rehearing.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Anita Vogt
Senior Administrative Judge